

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

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SAMARITAN MINISTRIES INTERNATIONAL,  
a religious Illinois non-profit corporation,  
6000 N. Forest Park Drive  
Peoria, Illinois 61614,

and ten of its New Mexico members, namely,

ZACHARY & RACHEL CORDEL, 662 CR F,  
Clovis, New Mexico 88101,

DAVID ALLAN & MONETTE BELL, 3 Mountain  
Vista Trail, La Luz, NM 88337,

REV. ANDREW & HEATHER HEATH, 1310  
Meadow Lane, Roswell, NM 88203,

JAY & AMY O'NEILL, 275 Blue Sky Lane, Mesilla  
Park, NM 88047, and

REV. NATHAN & REBEKAH BIENHOFF, 3501  
Highland Road, Roswell, NM 88201,

*Plaintiffs,*

v.

ALICE T. KANE, in her personal capacity and in her  
official capacity as the Superintendent of Insurance  
for New Mexico, 1120 Paseo de Peralta 4th Floor,  
Santa Fe, NM 87501,

*Defendant.*

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**Case No. 1:23-cv-1091-MIS-  
SCY**

**Jury Trial Requested**

**PLAINTIFFS' SECOND  
NOTICE OF  
SUPPLEMENTAL  
AUTHORITIES**

**Oral Argument Requested  
on the Pending Motions**

Plaintiffs hereby identify *Does 1-11 v. Bd. of Regents*, 2024 WL 2012317 (10th Cir. May 7, 2024) and its relevance.

1. *Does* supports ripeness and preenforcement standing for three independent reasons:

a. "[Plaintiffs have] standing to seek a preliminary injunction against enforcement of

- [OSI] Policy because they still suffer a continuing injury from it.” *Id.* \*10.
- b. Plaintiffs “all had reason to believe they would likely be subject to [OSI] Policy, and therefore suffer constitutional injury to their [religious] rights.” *Id.* \*6.
  - c. “[E]ven [if the] policy is repealed, ‘injunctive relief is still called for’ when [Plaintiffs] ‘remain under a constant threat’ that the policy will be reinstated or enforced in the future.” *Id.* \*9.
2. *Does* reinforces that Defendant “bears the burden of proof on the ultimate question of the challenged [policy’s] constitutionality[.]” *Id.* \*11.
  3. *Does* explicitly, repeatedly, even structurally (with headings) holds that certain religious-freedom violations—such as (a) *animus* or (b) intrusive inquiries—are “**categorically**” barred, “**regardless of any purported government interest.**” *Id.* \*12-13. Thus, *animus* is **categorically barred** with **no chance to satisfy strict scrutiny**.
    - a. Such animus need not disparage as badly as in *Masterpiece Cakeshop*. *Id.* \*22.
    - b. To even “characterize someone’s religious beliefs [as] insubstantial [or] insincere is to disparage his [or her] religion.” *Id.* (cleaned up).
    - c. OSI grossly exceeded this bar, equating HCSMs with “scammers trying to lure people.” VC ¶¶204-208.
    - d. Such descriptions of HCSMs come from OSI “Press Releases” that Defendant explicitly adopts. Interrog. Ans. #4 (Doc. 27-1); *see* VC ¶¶204-208.
    - e. Defendant also has never repudiated or even tempered her State’s association of Samaritan with “scams, shams, and frauds.” VC ¶¶794-800.
  4. Where discrimination is less egregious—and therefore not categorically barred—strict scrutiny applies. *Id.* \*12-22.

- a. “[Defendant] has not even attempted to explain why its interest is served by granting exemptions to [fraternals] but not [HCSMs].” *Id.* \*16.
  - b. And Defendant’s “Policy is in no way tailored.” *Id.* “[It] does not stop exemptions [for insurance-like activity]; it stops only exemptions for religious” activity like Samaritan’s. *Id.*
  - c. “[Defendant’s] Policy is not generally applicable because it grants secular exemptions on more favorable terms than religious exemptions.” *Id.* \*19.
  - d. “[M]otivation for the [Insurance Code] is irrelevant.... What matters is how—and why—[Defendant has] implemented the” Code the way she has. *Id.* \*22.
  - e. “[B]ecause ‘[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury,’” and because “the continuing harm alleged by [Plaintiffs] outweighs any harm to the public interest,” Plaintiffs are entitled to a preliminary injunction. *Id.* \*17.
5. The law was well-established before Defendant’s tenure, precluding qualified immunity.
- a. *Does* cites/quotes *Lukumi* (1993) thirteen times and *Colorado/Colo. Christian* (2008) twenty-eight times.
  - b. “[Plaintiffs] are likely to succeed on the merits because [Defendant’s] Policy clearly violates the Establishment Clause and the Free Exercise Clause as interpreted by our precedents.” *Id.* \*12; *accord* \*17.

Word Count: 484

Dated this 21st day of May, 2024

Respectfully submitted,

**COUNSEL FOR PLAINTIFFS**

GAMMON & GRANGE, P.C.

*/s/ J. Matthew Szymanski*

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